

m/03/026



United States Department of the Interior

BUREAU OF LAND MANAGEMENT

Salt Lake Field Office
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Salt Lake City, Utah 84119

IN REPLY REFER TO:

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Mr. Lon Thomas
Star Stone Quarries, Inc.
4040 South 300 West
Salt Lake City UT 84107

JUL 11 2002

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RECEIVED

JUL 12 2002

DIVISION OF
OIL, GAS AND MINING

Dear Mr. Thomas,

On June 15, 2000, we received your Plan of Operations (Plan) to conduct mining and quarrying activities on Star Stone Quarries, Inc. (SSQ) Rosebud #1 and #2 placer mining claims located in T. 10 N., R. 16 W., Section 14 (UMC-354975-354976). On July 14, 2000 we sent a letter to SSQ requesting information which would support SSQ's position that the building stone located within the boundaries of the subject claims was locatable and not salable. In your submitted Plan for the Rosebud area, you stated that "the mined material consists of quartzite that is used as decorative stone for exterior and interior walls of buildings; also for patios, floors, fireplaces, rock walls, and many types of lawn decorations." These uses are considered by the Bureau of Land Management (BLM) to be uses for which a variety of common mineral materials are suitable. This position is supported by numerous Interior Board of Land Appeal (IBLA) decisions and by supplemental case law.

On July 9, 2002, the BLM completed a mineral report entitled "Preliminary Common Variety Determination for Quartzite Building Stone Occurring Within the Rosebud #1 and Rosebud #2 Placer Mining Claims." We have enclosed a copy of the report for your information. In that report, a comparison of the quartzite building stone located within the subject claims was made relative to the following criteria, as cited in McClarty v. Secretary of Interior, 408 F. 2d. 907, 908 (9th Cir. 1969):

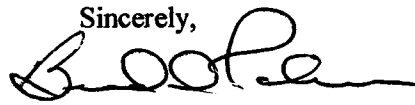
1. There must be a comparison of the mineral deposit in question with other deposits of such minerals generally;
2. The mineral deposit in question must have a unique property;
3. The unique property must give the deposit a distinct and special value;
4. If the special value is for uses to which ordinary varieties of the mineral are put, the deposit must have some distinct and special value for such use; and
5. The distinct and special value must be reflected by the higher price which the material commands in the market place, or by reduced cost of overhead so that the profit to the claimant would be substantially more.

It is our opinion that the subject quartzite building stone found within the boundaries of the Rosebud #1 and Rosebud #2 placer mining claims does not meet any of the five criteria for locatability as specified in the McClarty decision. At the present time, the BLM is left with three options to consider:

- Option 1: Based on information developed in the Common Variety Determination, the BLM respectfully requests that SSQ relinquish both the Rosebud #1 and Rosebud #2 placer mining claims and purchase the subject quartzite building stone under BLM's Mineral Material regulations at 43 CFR 3600;
- Option 2: SSQ chooses not to relinquish the subject mining claims. The BLM will prepare a validity examination for the Rosebud #1 and Rosebud #2 placer mining claims and a contest complaint will be issued. The operator's current authorization to mine quartzite building stone from the Rosebud area may be suspended pending the outcome of contest proceedings Southwest Resource Council, 96 IBLA 105, 124 (1987). If the BLM prevails in the contest proceeding, the operator may be liable for trespass damages for the removal of mineral materials from public lands without a sales contract from the BLM. In addition, the operator will not be authorized to remove any quartzite building stone from the subject lands without a valid contract under BLM's Mineral Material regulations at 43 CFR 3600;
- Option 3: SSQ will be allowed to maintain the Rosebud #1 and Rosebud #2 placer mining claims and operate under the existing Plan of Operations so long as all of the quartzite building stone removed from the site is purchased under BLM's Mineral Material regulations at 43 CFR 3600. A recent Department of the Interior Solicitor's Opinion M-36998, dated June 9, 1999, currently allows for the disposal of mineral materials from unpatented mining claims;

We ask that you review each of the three options, and provide this office with your response as to which option you would like to pursue within 30 days of receipt of this letter. If we do not receive any response, we will proceed with Option 2 and prepare a validity examination followed by a contest complaint. We look forward to resolving this matter as soon as possible. If you have any questions, or require additional information, please feel free to contact Michael Ford of my staff at (801) 977-4360.

Sincerely,



Brad D. Palmer
Assistant Field Office Manager
Non-Renewable Resources

Enclosure

cc: D. Wayne Hedberg